
By: **Delegates Getty and Stocksdale**
Introduced and read first time: February 8, 2002
Assigned to: Appropriations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 22, 2002

CHAPTER_____

1 AN ACT concerning

2 **Agricultural Land Preservation - Easements - Dwelling House**

3 FOR the purpose of providing that a landowner who originally sold an easement to
4 the Maryland Agricultural Land Preservation Foundation may apply to the
5 Foundation for a release of a certain amount of acreage for a certain landowner
6 in a certain county for the purpose of constructing a dwelling house under
7 certain circumstances; prohibiting a landowner from subdividing a dwelling
8 house from the property covered by the easement; providing for the termination
9 of this Act; and generally relating to agricultural land preservation.

10 BY repealing and reenacting, with amendments,
11 Article - Agriculture
12 Section 2-513(b)
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2001 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Agriculture**

18 2-513.

19 (b) (1) Except as otherwise provided in this section, a landowner, whose land
20 is subject to an easement, may not use the land for any commercial, industrial, or
21 residential purpose.

1 (2) Except as provided in paragraph (5) of this subsection, on written
2 application, the Foundation shall release free of easement restrictions only for the
3 landowner who originally sold an easement, 1 acre or less for the purpose of
4 constructing a dwelling house for the use only of that landowner or child of the
5 landowner subject to the following conditions:

6 (i) The total number of lots allowed to be released under this
7 section, except as provided in paragraph (5) of this subsection, may not exceed 10 lots
8 of 1 acre or less at a maximum of not more than 1 lot for each 20 acres or portion
9 thereof.

10 (ii) The resulting density on the property may not exceed the
11 density allowed under zoning of the property before the Foundation purchased the
12 easement.

13 (iii) The landowner shall pay the State for any acre or portion
14 released at the price per acre that the State paid the owner for the easement.

15 (iv) Before any conveyance or release, the landowner and the child,
16 if there is a conveyance to a child, shall agree not to subdivide further for residential
17 purposes any acreage allowed to be released. The agreement shall be recorded among
18 the land records where the land is located and shall bind all future owners.

19 (v) After certifying that the landowner or child of the landowner
20 has met the conditions provided in subparagraphs (i) through (iv) of this paragraph,
21 the Foundation shall issue a preliminary release which shall:

22 1. Become final when the Foundation receives and certifies a
23 nontransferable building permit in the name of the landowner or child of the
24 landowner for construction of a dwelling house; or

25 2. Become void upon the death of the person for whose
26 benefit the release was intended if the Foundation has not yet received a building
27 permit as provided in this subparagraph.

28 (vi) Any release or preliminary release issued under this paragraph
29 shall include a statement of the conditions under which it was issued, a certification
30 by the Foundation that all necessary conditions for release or preliminary release
31 have been met, and copies of any pertinent documents.

32 (vii) Any release, preliminary release, building permit, or other
33 document issued or submitted in accordance with this paragraph shall be recorded
34 among the land records where the land is located and shall bind all future owners.

35 (viii) The Foundation may not restrict the ability of a landowner who
36 originally sold an easement to acquire a release under this paragraph beyond the
37 requirements provided in this section.

38 (3) A landowner may construct housing for tenants fully engaged in
39 operation of the farm, but this construction may not exceed 1 tenant house per 100

1 acres. The land on which a tenant house is constructed may not be subdivided or conveyed to any person. In addition, the tenant house may not be conveyed separately from the original parcel.

(4) Except as provided in paragraph (5) of this subsection, on request to the Foundation, an owner may exclude from the easement restrictions 1 acre per each single dwelling, which existed at the time of the sale of the easement, by a land survey and recordation provided at the expense of the owner. However, before any exclusion is granted, an owner shall agree with the Foundation not to subdivide further for residential purposes any acreage allowed to be released. This agreement shall be recorded among the land records where the land is located and shall bind all future owners.

(5) (i) The restrictions of paragraphs (2) and (4) of this subsection concerning maximum lot sizes are altered so that the maximum lot size is 2 acres if:

1. Regulations adopted by the Department of the Environment require a minimum lot size for a dwelling house of not less than 2 acres in areas where there is less than 4 feet of unsaturated and unconsolidated soil material below the bottom of an on-site sewage disposal system or in areas located within 2,500 feet of the normal water level of an existing or proposed water supply reservoir; or

2. Regulations adopted by the jurisdiction in which the land is situated require that a lot for a dwelling house be larger than 1 acre.

(ii) For exclusions provided under paragraph (4) of this subsection, the landowner shall pay the State for any acre or portion released in excess of the 1 acre per single dwelling that existed at the time of easement.

(6) UNTIL ~~OCTOBER 1~~ SEPTEMBER 30, 2003, A LANDOWNER WHO ORIGINALLY SOLD AN EASEMENT MAY, UPON WRITTEN APPLICATION TO THE FOUNDATION, APPLY FOR A RELEASE OF 1 ACRE FREE OF EASEMENT RESTRICTIONS FOR THE CONSTRUCTION OF A DWELLING FOR ONE SUBSEQUENT LANDOWNER WHICH MAY NOT BE SEPARATELY SUBDIVIDED FROM THE PROPERTY IF:

(I) A DWELLING HOUSE DID NOT EXIST ON THE PROPERTY COVERED BY THE EASEMENT AT THE TIME OF THE SALE OF THE EASEMENT;

(II) THE EASEMENT WAS PURCHASED BY THE FOUNDATION PRIOR TO JANUARY 1, 1990;

(III) THE PROPERTY COVERED BY THE EASEMENT CONTAINS 50 ACRES OR MORE;

(IV) THE PROPERTY COVERED BY THE EASEMENT CONTAINS ALL OF THE LAND DESCRIBED IN THE DEED OR DEEDS OF RECORD AT THE TIME OF THE SALE OF THE EASEMENT;

1 (V) THE LANDOWNER WHO ORIGINALLY SOLD THE EASEMENT HAS
2 NOT EXERCISED THE RIGHT TO 1 ACRE FOR THE CONSTRUCTION OF A DWELLING
3 HOUSE PURSUANT TO PARAGRAPH (2) OF THIS SUBSECTION;

4 (VI) PRIOR TO THE RELEASE, THE LANDOWNER SHALL PAY THE
5 STATE FOR 1 ACRE AT THE PRICE PER ACRE THAT THE STATE PAID FOR THE
6 EASEMENT; AND

7 (VII) ~~THE COUNTY IN WHICH THE PROPERTY IS LOCATED HAS~~
8 ~~APPLIED TO, AND THE APPLICATION HAS BEEN APPROVED BY, THE FOUNDATION TO~~
9 ~~HAVE THE PROVISIONS OF THIS PARAGRAPH APPLY TO LAND WITHIN THE COUNTY~~
10 IN CARROLL COUNTY.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2002. It shall remain effective for a period of 1 year and, at the end of
13 September 30, 2003, with no further action required by the General Assembly, this
14 Act shall be abrogated and of no further force and effect.